Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

KEN BIEGELEISEN

Petitioner,

v.

CITY OF ITHACA
CAYUGA MEDICAL CENTER

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF NEW YORK

PETITION FOR WRIT OF CERTIORARI

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Petitioner, pro se

32 pp

QUESTION PRESENTED FOR REVIEW

Involuntary incarceration in a psychiatric hospital results in irreparable damage to a man's civil rights, and it can destroy his reputation. Yet the City of Ithaca has publicly proclaimed that its police force will find and neutralize those who *might* become dangerous to society, at some unspecified future time, and force them into compulsory psychotherapy or involuntary incarceration in a psychiatric hospital.

This practice is at odds with the established American judicial principle which states that a person is "innocent until proven guilty", and it therefore raises federal questions of a most profound and far-reaching nature.

In view of the above, the following question arises: Should the opinion of a police officer alone be sufficient to justify involuntarily incarceration in a psychiatric hospital?

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CITATIONS

None of the lower courts have issued any official or unofficial reports of their orders. There are no reports, opinions or orders which petitioner is able to cite, other than the vebatim transcriptions of the short statements of the courts below which appear in the appendix herein.

JURISDICTION

Petitioner seeks review of an order of the New York State Court of Appeals, denying him leave to appeal. This order was entered on February 13, 2002.

Petitioner believes jurisdiction to be properly based upon Rule 10(c) which indicates that the Court will consider a petition for a writ of certiorari in cases where "a state court has decided an important question of federal law that has not been, but should be, settled by this Court."

CONSTITUTIONAL PROVISIONS AND STATUTES

United States Constitution, Article III, section 2, clause 3: **"The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury..."**

United States Constitution, 1st amendment: **"Congress shall make no law respecting an establishment of religion, or prohibiting free exercise thereof..."**

United States Constitution, 4th amendment: **The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..."**

United States Constitution, 5th amendment: **"No person...shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law..."**

United States Constitution, 6th amendment: **"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed..."**

United States Constitution, 7th amendment: **"In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved..."**

United States Constitution, 14th amendment. section 1: **"No State shall...deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."**

STATEMENT OF THE CASE

This case arises because my son was falsely arrested, and unlawfully imprisoned in a psychiatric hospital.

I am a pro se petitioner, not by choice but by lack of money. I have made several grave errors of procedure in the lower courts, which are alleged by the courts below to have caused me to forfeit my right to grieve.

I disagree, and hold that my rights are not forfeited. I need, however, a compassionate court to broadly interpret the rules of the courts below, for the sake of the preservation of justice.

I therefore invite this court to read about my mistakes, and to have a good laugh at my expense.

At the same time, however, I ask also that the serious nature of the case, and the gravity of the public policy questions involved — which go directly to the heart of what defines a "free" country — not be swept under the rug, as has been done up to this point.

The case actually began three years before the incident which was the subject of the instant lawsuit. At that time, in the fall of 1996, one Michael A. Padula, a police officer in Ithaca, N.Y., was stabbed to death by a woman with a psychiatric history. He was the first police officer killed in the line of duty in the history of the city. The City of Ithaca subsequently embarked upon a nationally-publicized program to identify, and to neutralize, *a priori*, people who *might* become dangerous at some future time. This program has alarmed civil libertarians greatly, since it challenges the traditional American principle that a person is presumed innocent until proven guilty.

Furthermore, this program purposes to throw out a dragnet to ensnare many people who, for any number of reasons, either good or bad, appear to the police to be "potentially dangerous". The program then subjects such people to compulsory psychiatric therapy to prevent crimes which have not been committed, and which may never be committed.

My son, Timothy Biegeleisen, was caught up in this dragnet, and was incarcerated for 5 days in a locked psychiatric ward because, in the sole opinion of certain police officers who had been called by a neighbor, he was the "type" of person who might, at some unspecified future date, become dangerous to society.

Because of this involuntary hospitalization, my son's civil rights are permanently impaired. If, for example, he wanted to purchase a firearm (which he doesn't), he would be unable to get a permit. More significantly, there are many occupations, and many doors of opportunity of various sorts, which will now be closed to him forever, as his reputation has been smeared with the label "crazy person".

He can certainly forget about ever running for any elected office — he wouldn't stand a chance.

He was 19 at the time of his arrest, and I sued the City of Ithaca, and the Cayuga Medical Center, as a bereaved parent. I believe it was my right to do so, although the lower court inexplicably denies this.

The circumstances of the arrest were as follows. Timothy, who is currently an undergraduate senior at Cornell University, had become a devout follower of Orthodox Judaism in his freshman year. He moved into a multi-apartment student dwelling in August

1999, where he lived on the ground floor adjacent to a neighbor with whom an ongoing noise dispute developed. Each of them, Timothy and the neighbor, opined that that the other was too noisy, and the method of dealing with the perceived problem was to bang on the wall.

Timothy and the neighbor never once, in the first 3 months, met face-to-face, or communicated verbally. They communicated only by banging on the wall.

On Sunday, November 21, 1999, Timothy awoke to find that the landlord — a man whom he already believed to be anti-Semitic — had removed his mazuzah from the door. The mazuzah is a Jewish ornament which is required, by Orthodox tradition, to be posted on all doors, both inside and outside a dwelling.

As a religious icon, the mazuzah is as important to Jews as the cross of Jesus is to Christians, or as the American flag is to patriotic Americans. Intentional removal of a mazuzah can be construed to be an act of aggression comparable to tearing the cross from the walls of a Christian church, or burning the American flag.

Consequently, when Timothy awoke to find the mazuzah removed, the act alarmed him greatly. He was bothered by the act itself, and troubled further by the thought that he was facing 3 years with a landlord whose perceived anti-Semitism had now taken the form of physical aggression.

One need only consult current newspapers to be reminded that anti-Semitism is a powerful evil in the world to this day; an evil whose practitioners have

shown, through the ages, that they intend to act on their beliefs.

The following day, Monday November 22, 1999, Timothy went to classes and received a "C" in an examination, this being the lowest grade in a college examination which he has ever received, either before or since. His usual level of performance may be gauged by the fact that starting in the fall of this year, he will be attending graduate school in Chemistry at University of California at Berkeley, one of the top graduate Chemistry programs in the United States.

When, on November 22, 1999, Timothy returned home to his apartment after receiving the above-mentioned low grade in the examination, he was angry, and he vented his anger by shouting. He was in his apartment, alone, and was not shouting at anyone else.

This would have been the end of the matter, except that the neighbor, hearing the shouting, responded to the noise in the usual manner, and began banging on the wall.

Timothy, perhaps unwisely, decided at that moment that 3 months of wall banging was enough, and that the wall-banging should be discussed face-to-face. Toward this end he knocked on the neighbor's door. There was no answer, however, so he returned to his apartment, and began slicing some vegetables in preparation for dinner.

Once again, this could have been the end of the matter. But about 5 minutes later, there was a knock on Timothy's own door, and when he opened it, he found a man whom he did not know standing there. The man identified himself as the neighbor, whom

Timothy had never actually seen before. The man was visibly disturbed and was physically trembling, standing with both fists clenched. He had a heavy foreign accent (Russian, as it turns out), and communication was difficult. Timothy thought that the man was going to forcibly enter into his apartment and hit him.

Timothy was frightened, and, having had no prior fighting experience, he reflexively picked up the knife he had been using to slice vegetables, expecting he might need it to discourage the anticipated aggression of the neighbor. There were a few tense seconds, but nothing happened. Neither party did anything, or said anything further. So Timothy put down the knife and closed the door.

Was he justified in picking up the knife? He was in his own home, and his property and body were possibly about to be invaded and attacked by a hostile neighbor with clenched fists. Timothy felt threatened and did not feel adequate to defend himself with his own fists. Was he really threatened? A jury, examining all the facts, might find that he was. Or, a jury might find otherwise. But no jury has ever been permitted to hear the facts.

Again, a jury, even if it concluded, after examining both parties to the dispute, that there was no real threat of violence, might nevertheless find that Timothy's actions were justifiable by a reasonable belief that violence was indeed imminent. Or they might find otherwise. But no jury has been permitted to hear the facts.

Once again, at that point, the matter could have ended. But moments later, there was a sound of sirens, and the police arrived. This escalated the

problem to a whole new level of seriousness, and Timothy was hardly prepared to deal with it, having never had any adverse encounter with the law before.

The first officer to arrive at the front door said "What's this crap about a knife?", and began walking toward the back of the house where the events took place. Timothy followed behind, and attempted to answer the officer's question, by explaining the sequence of events which had transpired. He started with the removal of his Mazuzah, intending to discuss the low grade in the examination, the subsequent shouting, the neighbor banging on the wall, and the resulting confrontation.

He noticed, however, that the police officer was not paying any attention to him, and he therefore started his story over again, at which point the officer stopped dead in his tracks, whirled about and said:

> **If you tell me that *Jew* story again, I'll slam you against the wall!**

Timothy was now totally intimidated, and refrained from speaking further. This is the reason that the court records of this case contain only testimony of the neighbor, and no testimony from my son.

Several more police officers arrived, the names of whom have all been withheld from me by the City of Ithaca. The neighbors were extensively interviewed, giving both oral and written statements. My son was not permitted to speak, however, since his story was a "Jew story".

He was then placed under arrest. The Miranda rights were not read to him.

He was not taken to prison, however. He was taken to the Cayuga Medical Center psychiatric ward, where he was interviewed by an undergraduate college student who was moonlighting at the front desk. I emphasize that this was a *student,* certainly not a physician, and not even a para-medical worker. The entire "admission process" was conducted by this college student, acting in the stead of an unlicensed physician.

After this pretend "medical evaluation", an admitting paper was thrust in front of Timothy, and he was ordered to sign it. He turned to the police officer and asked if his signature was compulsory. The police officer said "yes", which is an obvious lie. In actual fact, no one can be compelled to enter a locked psychiatric ward except by the authority of one or more qualified physicians, and no one is under any compulsion to sign away his rights.

Once on the psychiatric ward, Timothy was not permitted to make a phone call. So much for "Miranda".

I learned of his false arrest from his landlord, who had been called by the neighbors.

Timothy was held in that ward for 5 days, during which time nothing was done. No medication or psychiatric therapy was given. In the world of health insurance, this is referred to as "utilization".

About 2 weeks after he was "discharged", he was required to appear before the Ithaca City Court on the charge of misdemeanor threatening with a weapon, a serious charge carrying a possible 1-year prison sentence. We had no money for an attorney, and reluctantly accepted assigned counsel.

On our way out of the court room that day, the district attorney proposed, and the judge cheerfully consented to the issuing of a restraining order on Timothy. As it was now nearly 3 weeks after the initial incident, it was clear that the restraining order, which had evidently not been necessary for the first three weeks, and was therefore clearly not necessary at all, was being issued solely to continue to foster the myth that Timothy was "dangerous", and to impart the illusion of propriety to his false arrest.

During the subsequent months, the court-appointed lawyer attempted, or pretended to attempt to obtain an adjournment in contemplation of dismissal, but instead, we were advised that, following an additional interview of Timothy's neighbors by the City Prosecutor, the District Attorney had decided to *upgrade* the false charges to a higher degree of misdemeanor. As usual, Timothy was *not* interviewed by the City Prosecutor: once again only the neighbors were permitted to testify. Furthermore, we were informed that Timothy was going to be subjected to a *non-jury trial* before the same bigoted judge who had been upholding the false arrest and illegal incarceration from the start, and who had had the temerity to issue a bogus restraining order.

We knew we could not win a non-jury trial before an openly prejudiced and hostile Judge. Furthermore, the District Attorney had also revealed his prejudice by the imposition of his almost-comically late, and clearly punitive restraining order.

There was no way we were going to submit to a non-jury trial before these lawless individuals.

I then informed the court-appointed attorney that we were going to initiate our own lawsuit against the City. I did not expect this pathetic threat to have any immediate effect, but perhaps it did, in that a plea-bargain was proposed, *down*-grading the charges from a criminal misdemeanor to a violation. Since we had been hoping for complete dismissal, we were not pleased, but under threat of a non-jury trial before an openly-prejudiced judge, we had no choice but to consent.

The ultimate insult, however, occurred *after* acceptance of the plea-bargain, at which time I was first made aware that the plea-bargain included a requirement for open-ended, potentially long-standing forced "psychotherapy" at the Cornell University mental health service. When Timothy complained bitterly about the low level of care being offered there, and particularly about the total inability of the therapists there to understand the peculiar problems of being an orthodox Jew in the largely atheist/agnostic Cornell community, I interviewed three therapists who had seen him, including the director of the entire mental health service.

None of them was able to identify a specific "mental problem", or make a diagnosis, or even a prospective diagnosis. Worst still, none of them had a treatment plan. Yet each one, in turn, told me that it might take months or even years to "get to the bottom of it".

To the bottom of *what*? No diagnosis? No treatment plan? And yet a proposal for years of "psychotherapy", enforced by a bogus court order?

We are again clearly dealing with what the health insurance industry calls "utilization". What a windfall for that clinic! Open-ended long-term therapy,

enforced by a court order, with no need to make a diagnosis or formulate a treatment plan; an open-ended invitation to bill for services real or imagined, with no requirement to justify anything, and with no beginning, middle or end in sight.

At that point I decided to sue. I knew that as a pro se petitioner, I stood almost no chance of prevailing. I also knew that some pretext was likely to be found to dismiss the case before the facts were brought before a jury.

Therefore, I decided to sue as a bereaved parent, since my son was 19 years old at the time of his false arrest, and I therefore perceived that it was my right to do so. In deciding to bring suit under my name, and not Timothy's, my reasoning was that after my case was dismissed (which I fully expected), he could still bring a second suit in his own name, avoiding the pretext for dismissing the case which was used the first time.

I was quite right to expect the case to be dismissed, but I was not prepared for the pretext. There is a requirement under New York State law (CPLR §50-3(a)), which I was not aware of at that time, that a municipality must be served with a "Notice of Claim" before being served with a summons. The Notice of Claim must, under this law, be served within 90 days of the incident.

Whether, in the case of an incident which extends over a period of time, the 90 days begins at the *beginning* of the incident, or the *end* of the incident, is not stated in the law.

This law gives the municipality time to fashion a remedy before a lawsuit is initiated. The purpose of the Notice of Claim is to prevent large sums of money

from being tied up in escrow pending the outcomes of legal cases. I did not previously know about the need to file a Notice of Claim.

The time frame was as follows: The initial incident, that is the arrest and forced hospitalization, took place on November 22, 1999. The final incident, the bogus "psychotherapy", took place over a period of several weeks in April and May of 2000.

I served a summons and complaint on June 2, 2000. Our harassment, by the City of Ithaca, which had been continuous since November 1999, ceased immediately.

The defendants initially did not answer the summons and complaint, which baffled me totally. Then, on August 15, 2000, they unexpectedly made a Motion to Dismiss, on the grounds that they had not been served with a Notice of Claim.

In my opposition to the Motion to Dismiss, I asked the court to interpret the law broadly, pointing out first of all that (a) I was pro se, and needed their compassionate understanding, (b) that the Summons and Complaint contained more information than was required in a Notice of Claim, and (c) that the actions which were the subject of the lawsuit extended over a 6-month period, from November 1999 to May 2000, and that therefore the 90 day period within which a Notice of Claim could be filed was not necessarily over.

Secondly, I pointed out that the case raised many important public policy questions, since my son's rights under the 4th and 5th amendments were clearly violated by his false arrest and incarceration; that his rights to due process and equal protection under the

5th and 14th amendments had been violated in that he had been repeatedly and systematically denied the opportunity to speak on his own behalf; that his rights under the 1st amendment had been violated in that he had been arrested by an openly anti-Semitic police officer; and that his right to a jury trial under Article III, section 2, clause 3, and under the 6th and 7th amendments, had been violated by the threat of a non-jury trial before an openly prejudiced judge.

Therefore, I asked the lower court to either deem the Summons and Complaint to be the equivalent of a Notice of Claim, since it had been served within 90 days of the end of a chain of abuses, or, alternatively, to grant me leave to file a Notice of Claim at that time, in August 2000. These requests were denied.

The defendants' motion to dismiss was granted on September 11, 2000. I filed a Notice of Appeal.

In my Brief to the Appellate Division, I made the same arguments I made in my opposition to the defendant's Motion to Dismiss. It took me very nearly 6 months to study the law, and to assemble and serve the papers; a process which was completed a few days before the end of the 6-month period which is allowed for perfecting an appeal in New York State.

The Appellate Division, however, refused to accept my Brief, because it was accompanied by several motions. I was told, by the rejecting clerk, that all motions had to be decided *before* a Brief could be accepted.

I therefore again reviewed the law, both in the "Civil Practice Law and Rules Handbook" of New York State, and in the *Guide To Civil Practice* of the Appellate Division Second Department. The latter book had been provided to me six months earlier by the court

clerk when I informed him that I was pro se, and that I needed to see the rules of the Court.

I was unable to find the "rule" the clerk alleged himself to be citing, in stating that all motions had to be decided before a Brief could be accepted.

The only rule in the *Guide To Civil Practice* defining the time limit on perfecting an appeal was §5, reads "**An appeal is perfected by the filing of a brief and a record**". The appellant is granted 6 months from the date of service of a Notice of Appeal to perfect the appeal. There is no mention in the Court's own *Guide To Civil Practice*, or in the "Civil Practice Law and Rules Handbook" of New York State, of any requirement that motions had to be determined prior to the expiration of this 6-month period.

I therefore had to make a motion to the Appellate Division to Enlarge the Time for Appeal. This motion was denied. The rule cited by the court in rejecting the motion, and the appeal in its entirety, was a rule called "22 NYCRR 670.8[e]", which had suddenly become the "rules of the court".

The upshot of it is that when I was preparing my pro se petition, I asked the court for its rules, and it gave me one set. When the same court rejected my petition it cited a different set entirely.

I'm sure the clerks and lawyers of the Appellate Division had a good laugh at my expense, but is it lawful to intentionally deceive a pro se petitioner?

I made a motion to the New York State Court of Appeals for Leave to Appeal, which, on February 13, 2002, issued an order, without comment, upholding the trick which had been played on me by the ladies

and gentlemen of the court below, in its providing me with a set of rules differing from the set used to "justify" dismissing my case.

Thus, the question of whether or not it is lawful for an American citizen to be imprisoned in a mental hospital on the sole word of a police officer, with gross violation of almost the entire Bill of Rights, has been successfully kept out of the courts until now.

It therefore falls to the Supreme Court of the United States to decide whether it will be a court of substantial law, or just another procedural machine, which grinds up and spits out the rights of everyone who doesn't have some sort of special "status" in the eyes of our bored and disinterested judiciary.

REASONS FOR ALLOWANCE OF THE WRIT

The primary question raised by this petition is whether or not a police officer should have legal authority to order the psychiatric confinement of an individual whom he unilaterally deems to be "potentially dangerous", without a court order or medical examination.

A psychiatric confinement is a form of imprisonment; a form once used extensively in the former Soviet Union and other repressive dictatorships to "neutralize" government protestors. This is not supposed to be possible in the United States.

It is commonly presumed, here in the United States, that the principle that a person is "innocent until proven guilty" is the unbreakable law of the land, and that, moreover, it is an important distinguishing characteristic of our legal system in comparison to the supposedly-inferior legal systems of the other nations of the world.

The statement "a person is innocent until proven guilty", however, is not found in the Constitution. It may be said to be a logical conclusion derived from consideration of the Constitution and its amendments, particularly the 4th, 5th, 6th, and 7th amendments, which collectively establish that a person cannot be lawfully arrested without good cause and due process, and that a person cannot be convicted of a crime except by a jury of peers. This latter requirement is refined by the prohibition against confessions obtained by torture, and by the prohibition against repeated trials for the same offense.

Nevertheless, although there is a firm constitutional basis for the doctrine that "a person is innocent until

proven guilty", there is clearly also a precedent for restraining people who *are* dangerous — before any process of law has had time to unfold. In the State of New York, for example, public health law allows officials of the Health Department to temporarily close a facility which appears to pose an immediate threat to the public welfare, pending review of the matter by the courts. The closing of the facility comes first; the review later.

Your petitioner himself was once involved in an effort to restrain an unlicensed abortion clinic in which an African-American woman had died because of having been left unattended while under general anesthesia. This same clinic had been previously shut down by the New York State Department of Health for similar outrages, and your petitioner has never doubted that that action was in the public interest, or that it was lawful within the scope of powers delegated to government to protect the public from immediate and serious physical harm from the improper practice of medicine.

But in the case of Public Health, the closures are by the authority of Health Department specialists, who are trained in the art of identifying and dealing with such imminent danger.

In the case of Timothy Biegeleisen, the son of your petitioner, the determination that he was "dangerous" was made by a police office with no psychiatric training whatsoever. The officer revealed by his words — which have not been denied by the City of Ithaca — that he was acting out of religious prejudice.

Moreover, the admission to the mental hospital was accomplished by a college student, acting in the stead of an unlicensed physician, and imagining himself to

be competent to make judgments about what a person *might* do in the future. This is a far cry from the case of a specially-trained public health official temporarily closing a clinic in which lives have already been lost, and in which the threat to public safety is already established to exist.

It should be specifically noted that the morning after Timothy was "admitted" to the mental hospital, the psychiatrist ambled in at around 10 AM, and proceeded to pass judgment on Timothy's mental state, which, at that time, had been altered by his abduction and incarceration. Consider the facts: He had been ordered not to speak on pain of physical retaliation (**"If you tell me that *Jew* story again, I'll slam you against the wall!"**). He had been arrested, and his rights under the Miranda Supreme Court decision had *not* been read. He had to beg the arresting officers to let him put on shoes before being dragged out of his house — they intended to take him away barefoot. He had been fraudulently coerced into signing what were, in fact, voluntary commitment papers. He had been denied the right to make a telephone call.

Underlying all this was the knowledge that his father did not have enough money to hire competent counsel, and that the mental hospital had the power to hold him indefinitely, at its whim. Furthermore, these events took place during the week in which every Cornell student was studying for final exams, and now Timothy would have to study for final exams in a locked psychiatric ward.

All this collectively made him panic-stricken, and any opinion of the psychiatrist about his mental state was an opinion about a state which was induced by, and caused by the malice and negligence of the

defendants, who have, since then, duplicitously referred to the defect in themselves as a "disease" in my son.

The alleged "disease" did not exist at any time in the previous 19 years of his life, and it has not emerged in the 3 years since then. What sort of "disease", then, is this?

In physical medicine, this is called "iatrogenic" — where medical mismanagement itself causes disease, which doctors then apply further treatment to, thereby profiting financially from their own mistakes.

In Timothy's case, any signs of mental disturbance perceived by the psychiatrist, who ambled in the next morning at 10 AM, were signs of disturbance which this institutionalized system of false arrest *caused.*

Once the City of Ithaca established that Timothy was, in their view, "crazy", they went on to further outrages. There was a restraining order, issued 2 weeks *after* he had been released from the mental hospital. This served no purpose other than to "prove", in the twisted minds of the Ithaca judiciary, that Timothy was "dangerous". After all, only "crazy" people need restraining orders. Therefore, anyone with a restraining order *must* be crazy. No?

No.

Then there was the threat of a non-jury trial for a criminal misdemeanor carrying a one-year jail sentence. *Non-jury trial?* Why did our ideological ancestors bother with the American Revolution? We already *had* non-jury trials in Merry Old England.

Finally there was the court order for interminable "psychotherapy" by therapists who unabashedly admitted to having no diagnosis or treatment plan; men and women without a clue as to what they were doing, yet prepared to consume years of my son's life to "get to the bottom of it". This again served no purpose other than to "prove" that Timothy was "crazy". After all, only "crazy" people need interminable psychotherapy. Therefore, anyone committed to open-ended psychotherapy *must* be crazy. No?

No.

It now falls to this court to establish, or re-establish, that a police officer cannot lawfully pass judgment upon a man's sanity; and to establish, or re-establish, that a man cannot be lawfully arrested unless his rights are read — and *granted*; and that a psychiatrist cannot be permitted to make judgments upon a man's sanity *after* the man has been falsely arrested and locked up in a mental hospital; and that trial for a crime carrying a long jail sentence cannot be conducted by a bigoted judge in secret, but must be by jury as the law requires.

APPENDIX

1. Motion for Leave to Appeal

Your petitioner seeks review of an order of the New York State Court of Appeals, with respect to a motion for leave to appeal submitted to that Court by petitioner on December 14, 2001.

The motion asked the Court to review an order of the Appellate Division, Second Department, refusing to grant a motion to enlarge the time for submission of a Brief and Record on Appeal which had been submitted a few days short of 6 months after the filing of the Notice of Appeal. They had been rejected as being "untimely", not because they had been filed late, but because they had been accompanied by several motions. The order of the New York State Court of Appeals, rendered and entered on February 13, 2002, read:

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the thirteenth day of February 2002.

Present, HON. JUDITH S. KAYE, *Chief Judge, presiding.*

2-11 Mo. No. 1424.

Ken Biegeleisen, Appellant
v.
City of Ithaca, et al., Respondents.

A motion for leave to appeal to the Court of Appeals in the above cause having heretofore been made upon the part of the appellant herein and

papers having been submitted thereon and due deliberation having been thereupon had, it is

ORDERED, that the said motion be and the same hereby is denied.

"s/Stuart M. Cohen"
Clerk of the Court

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2. Motion To Enlarge the Time To Perfect an Appeal

Prior to the above motion to the New York State Court of Appeals, your petitioner made a Motion To Enlarge The Time to Perfect an Appeal, to the Appellate Division, Second Department. The Motion was submitted on April 3, 2001. The decision and order of that court, dated May 29, 2001, read:

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION:
SECOND JUDICIAL DEPARTMENT

8002G
U/mv

GLORIA GOLDSTEIN, J.P.
JOE F. McGINITY
ROBERT W. SCHMIDT
BARRY A. COZIER, JJ.

2000-09146

DECISION & ORDER ON MOTION

Ken Biegeleisen, appellant v.
City of Ithaca, et al., respondents.

Motion by the appellant, *inter alia,* to enlarge the time to perfect an appeal from an order of the Supreme Court, Westchester County, entered September 11, 2000.

Upon the papers filed in support of the motion and no papers having been filed in opposition thereto, it is

ORDERED that on the court's own motion, the appeal is dismissed, without costs or disbursements, for failure to timely perfect the same in accordance with the rules of this court (*see,* 22 NYCRR 670.8[e]); and it is further,

ORDERED that the motion is denied as academic.

GOLDSTEIN, J.P., McGINITY, SCHMIDT and COZIER, JJ., concur.

ENTER:

James Edward Pelzer
Clerk

May 29, 2001

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3. Defendant-Respondent's Motion To Dismiss

Your petitioner sued the defendants in New York State Supreme Court prior to serving a Notice of Claim, as chronicled in the Statement Of The Case above. The defendants made a Motion To Dismiss on this basis, which was granted on September 11, 2000. The order of the Court read:

SUPREME COURT - STATE OF NEW YORK
IAS PART WESTCHESTER COUNTY

FILED AND ENTERED ON 9-11-2000
WESTCHESTER COUNTY CLERK

To commence the statutory time period of appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

PRESENT: HON. JOAN B. LEFKOWITZ
Justice Index No.: 8603/00
----------X Motion Date: 9/8/00
KEN BIEGELEISEN,
Plaintiff,
-against-
CITY OF ITHACA and CAYUGA MEDICAL CENTER
Defendants
----------X

The following papers numbered 1 to 10 read on this motion by defendant City to dismiss complaint.

	Papers Numbered
Notice of Motion/Order to Show Cause-Affidavits	1-2
Answering Affidavits	3
Replying Affidavits	
Affidavits	
Filed papers	
Pleadings-Exhibits-Stipulations-Minutes	4-9
Briefs: Plaintiffs/Petitioner's___Def. Resp.	10

Upon the foregoing papers it is ORDERED that the motion is granted. No triable issues of fact exist. The Court lacks jurisdiction as defendant City was not properly served. Furthermore, on the merits, the complaint fails to state a cause of action on behalf of the plaintiff who lacks standing to sue. Additionally, no notice of claim was filed.

the plaintiff who lacks standing to sue. Additionally, no notice of claim was filed.

Ken Biegeleisen, M.D.
Pro Se
133 East 73rd Street
New York, New York 10021

Corleto & Associates, P.C.
Attorneys for Defendant City
50 Main Street, Ste. 1000
White Plains, New York 10606

DATED: September 11, 2000
ENTERED: "s/JOAN B. LEFKOWITZ, J.S.C."

CONCLUSION

Your petitioner's son was confined in a mental institution because of the opinion of a police officer; a man not licensed to practice psychiatric medicine or any other medicine. My son's explanation for the events leading to his false arrest were dismissed as a "Jew story". He was threatened with a non-jury trial for a criminal misdemeanor carrying a 1-year jail sentence. He was coerced into consenting to bogus psychotherapy of an undefined sort, with no stated goal or length.

How can such things happen in America, a "free" country?

Your petitioner has made serious procedural errors at every level. The rules, however, can be interpreted differently than they were by the lower courts, which seem more interested in clearing their dockets than in doing the job they are paid to do, namely to uphold the rights to life, liberty and pursuit happiness.

Wherefore petitioner respectfully appeals to this Court to uphold the spirit of the law, and not to be bound to lower court rules which can be interpreted more than one way. Please help me to reinstate this case.

Respectfully submitted,

Ken Biegeleisen
Pro se
117 Main Street
Irvington, N.Y. 10533
Telephone: (212) 717-4422

"I declare under penalty of perjury that the foregoing is true and correct. Executed on May 6, 2002".

Ken Biegeleisen